

Bulletin No. 735-3

Washington, D. C. 20415
December 28, 1978SUBJECT: Implementation of the Ethics
in Government Act of 1978 (P.L. 95-521)

Heads of Departments and Independent Establishments:

This is a followup to CSC Bulletin No. 735-2 of December 20, 1978, setting forth the main provisions of the Ethics in Government Act. As in the case of the previous bulletin, it is being issued to inform agencies of major provisions of the Act and to provide general guidance pending issuance of regulations.

(1) The Designated Agency Official

The Act provides that each agency designate an official to administer the pertinent provisions of the Act. The importance of the designated agency official is highlighted by the fact that the official is subject to the reporting requirements of the Act, regardless of grade. The person selected should be a top-ranking employee possessing maturity, legal or other relevant experience, and sufficient stature to deal with the financial affairs of high ranking officials. The selection should not be made on the basis of title alone, such as General Counsel or Assistant Secretary, but the selectee should be someone who can devote sufficient time to the duties of the position.

Although the Act contemplates that one person within an agency be responsible for administering the Act, the functions of the designated agency official may be further delegated provided that they are performed under the general supervision of the designated agency official who retains ultimate responsibility for ensuring compliance with the Act.

The name and location of the designated agency official should be widely publicized through bulletin boards, newsletters, or similar means, since it is essential that persons covered by the Act know where to file financial statements and seek assistance. Additionally the Office of Government Ethics (OGE) should be informed of the name of the official.

The person appointed as designated agency official must file a financial disclosure statement within thirty days of appointment, as required by section 201(a) of the Act. A copy of this statement should be promptly transmitted to the OGE by your agency.

(2) Resignation or Retirement in Advance of January 1, 1979

Any individual who occupies a position which will be covered under the Act will not be subject to the reporting requirements if he or she resigns or retires on or before December 31, 1978.

Inquiries: Office of the General Counsel, (202 63-25506, 25421)

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(3) The Financial Disclosure Statements

There will be two separate financial disclosure statements:

- (a) Standard Form 278, Financial Disclosure Statement. This statement is for those who are required to make reports by May 15, 1979 or upon termination of employment.
- (b) Standard Form 278A, Financial Disclosure Statement. This statement is for new appointees, nominees to positions requiring Senate confirmation and candidates for President and Vice-President.

Until they become available through the General Services Administration's Federal Supply Service, OGE will stock a supply of both forms sufficient to meet immediate needs. These will be made available to agencies upon request. Agencies are asked to hold requests to a minimum and to provide OGE an estimate of the number of each type of form which will be needed during 1979.

(4) Public Access to the Financial Statements

The statements must be available for public disclosure within 15 days after they have been received by your agency. Your agency must:

- (a) Note on the report the date of its receipt since the 15 days for public disclosure runs from that time.
- (b) Attach to the report a copy of the official position description of the office or position held by the reporting individual.

In this connection, we recommend that your agency identify in advance the positions which will require reporting under the Act and prepare a copy of the official description for each such position for later use.

Any person may have access to the reports for inspection or copying. The requestor need not identify himself or state the reason for the request. A reasonable fee may be charged to cover the cost of reproduction or mailing "excluding any salary of any employee involved in such reproduction or mailing." However, if any person should obtain or use a report for any unlawful reason, for a commercial purpose or a credit rating, or for use directly or indirectly in the solicitation of money for any political, charitable or other purpose, the person may be subject to a penalty in any amount not to exceed \$5,000.

(5) Agency Review of Financial Statements

The Act requires that statements be reviewed within 60 days from the date of receipt. In most cases the report will have been available to the public prior to review. After the report has been reviewed and found to be in compliance, a notation to that effect should be recorded on the report. Compliance should usually be noted within the sixty day period unless there is additional information that is required or further steps are needed for removing an actual or potential conflict. The review function will be covered more fully in the regulations.

(6) Qualified Blind Trusts

Only the OGE is authorized to recognize a trust as a qualified blind trust under section 202(f)(3) of the Act. Any such trust must be submitted to the OGE by your agency as well as any trust presently in existence which the reporting individual seeks to have recognized as a qualified blind trust under the provisions of section 202(f)(7) of the Act.

(7) Advisory Opinions

The Act grants authority for the OGE to render advisory opinions. However, these opinions are reserved for matters of general applicability or important matters of first impression and agencies should attempt to handle routine questions independently or through informal consultation with the OGE, as necessary.

(8) Gifts

The financial report requires a listing of gifts, transportation, entertainment or reimbursement above specified amounts. The listing of these items does not legitimize their acceptance if such conduct is improper under applicable laws, Executive Order 11222, 5 C.F.R. Part 735 and the statutes and regulations of your agency.

(9) Reports From Those Not Covered Under the Act

Reports now filed by officials and employees who are not covered under the Ethics in Government Act will continue to be required under Executive Order 11222, 5 C.F.R. Part 735 and your regulations. These reports are due on an annual basis usually for the year ending June 30 or September 30. These dates can continue in use for these reports. They need not be coordinated with the reporting date of May 15 as required for most positions under the Act.

(10) Financial Disclosure Reports of Presidential Nominees

Copies of financial statements filed by individuals nominated to a position requiring Senate confirmation should be transmitted promptly to the Director of the OGE by your agency. The Director is responsible for forwarding a copy of the statement to the Congressional committee considering the nomination.

Raymond Jacobson

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Executive Director

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